

**IN THE COURT OF APPEALS**  
**FIRST APPELLATE DISTRICT OF OHIO**  
**HAMILTON COUNTY, OHIO**

STATE OF OHIO,	:	APPEAL NO. C-090441
	:	TRIAL NO. B-0803568
Plaintiff-Appellee,	:	
vs.	:	<i>JUDGMENT ENTRY.</i>
RACHEL HARRISON,	:	
Defendant-Appellant.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant Rachel Harrison appeals from her convictions on three counts of using deception to obtain a dangerous drug.<sup>2</sup> In her appeal, Harrison argues that the trial court erred in overruling her motion to suppress certain incriminating statements. But because her admissions were voluntarily made, we affirm the trial court's judgment.

In December 2007, William Rogers, a part-time detective with the Blue Ash Police Department who was also a full-time physician at a hospital in Oxford, Ohio, interviewed Harrison at Ohio Valley Orthopedics, her place of employment. The interview took place in an examination room, beginning at approximately 1:30 p.m. and continuing for about an hour.

That day Rogers was wearing a green scrub shirt and khaki pants, and before beginning the interview, he told Harrison that he was a physician and also a part-

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

<sup>2</sup> R.C. 2925.22(A).

time detective with the Blue Ash police, that the interview would be quick, and that he wanted to tape-record the conversation.

Rogers interviewed Harrison about prescriptions that had been called into a pharmacy, about prescriptions for pain medication that had been written for Harrison by various doctors, about how she had obtained those prescriptions, and about her husband's involvement in selling her prescriptions.

A little more than halfway through the interview, Rogers told Harrison that she was involved in several felony drug charges, and that if she lied to him, "it's going to be another felony charge." Rogers later admitted that he knew that he could not charge Harrison with a felony for lying. Rogers ended the interview by advising Harrison that she might want to retain legal counsel.

Harrison contends, under the totality of the circumstances,<sup>3</sup> that she was coerced and that her admissions, therefore, were not voluntarily made.

In determining whether there was coercive police conduct, courts adhere to a totality-of-the-circumstances standard.<sup>4</sup> The totality of the circumstances includes "the age, mentality, and prior criminal experience of the accused; the length, intensity, and frequency of interrogation; the existence of physical deprivation or mistreatment; and the existence of threat or inducement."<sup>5</sup> Absent evidence that a defendant's will was overborne and that his capacity for self-determination was critically impaired because of coercive police conduct, the decision of a suspect to waive his Fifth Amendment privilege is considered voluntary.<sup>6</sup>

Our review of the record convinces us that Harrison's admissions were voluntarily made. Harrison argues that she did not know that Rogers was a

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<sup>3</sup> *State v. Clark* (1988), 38 Ohio St.3d 252, 527 N.E.2d 844.

<sup>4</sup> *Id.*

<sup>5</sup> *In re Watson* (1989), 47 Ohio St.3d 86, 90, 548 N.E.2d 210, quoting *State v. Edwards* (1976), 49 Ohio St.2d 31, 358 N.E.2d 1051, paragraph two of the syllabus.

<sup>6</sup> *State v. Dailey* (1990), 53 Ohio St.3d 88, 91-92, 559 N.E.2d 459.

detective, but the transcript of the suppression hearing shows otherwise. Rogers immediately identified himself as both a doctor and a detective. Harrison also contends that Rogers lied to her when he told her that she could be charged with an additional felony. But Rogers explained that this statement was taken out of context, and that he had actually been trying to impress on her that if she did not cooperate he could charge her with additional felonies for using deception to obtain drugs. He denied saying that she would be charged simply for being untruthful with him during the interview. Finally, we note that the interview was conversational in nature, that on multiple occasions Harrison insisted that they continue the interview, and that she kept talking. The interview was not coercive.

We hold that the trial court properly denied Harrison's suppression motion, and its judgment is affirmed.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App.R. 27. Costs shall be taxed under App.R. 24.

**HILDEBRANDT, P.J., DINKELACKER and MALLORY, JJ.**

*To the Clerk:*

Enter upon the Journal of the Court on May 26, 2010

per order of the Court \_\_\_\_\_.  
Presiding Judge